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AND HEALTH STANDARDS BOARD
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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Division 1, Chapter 4, Subchapter 4, Article 10, Section 1593
of the Construction Safety Orders; and Subchapter 7, Article 25,
Section 3650 of the General Industry Safety Orders

Use of Forklift Trucks and Excavators for Hoisting Loads

SUMMARY

This rulemaking is an Occupational Safety and Health Standards Board (Board) staff initiated proposal with regard to the use of forklift trucks and excavators for lifting loads. Construction Safety Orders (CSO), Section 1593 and General Industry Safety Orders (GISO), Section 3650 are silent as to the use of industrial trucks and haulage vehicles, respectively, for lifting suspended loads. The proposal will amend Sections 1593 and 3650 to require that slings used for lifting meet the sling standards contained in Article 101 of the GISO. Article 101 applies to slings used in conjunction with material handling equipment for the movement of material by hoisting and addresses alloy steel, wire rope, metal mesh, natural or synthetic fiber rope and synthetic web slings. Article 101 also addresses safe operating practices and inspection maintenance of slings. The misuse of slings on these vehicles could result in toppling of the vehicle and its load and cause serious injury or fatality to the operator and others in the vicinity.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirrors the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations, in that federal regulations do not include provisions that are equivalent to this proposal. However, this proposal adds clarity to existing State standards and does not contradict any federal standard.

- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts.
- Is the least burdensome effective alternative because the proposal is a clarification of existing Title 8 standards governing the use of slings to ensure that the employer knows that existing GISO Article 101 sling standards are meant to be applied to forklifts, excavators, loaders and similar equipment. The GISO and CSO are silent as to the use of industrial trucks and haulage vehicles, respectively, for lifting suspended loads. No alternative proposal for going forward has been suggested.

Section 1593. Haulage Vehicle Operation.

Existing Section 1593 of the CSO prescribes safe operating procedures for haulage vehicles. A new subsection (n) is proposed to specify that the use, care and maintenance of slings used in lifting suspended loads with excavators, loaders and similar equipment shall comply with Article 101 of the GISO. The proposal is necessary to promote the safe use of slings with this sort of equipment.

Section 3650. Industrial Trucks. General.

Existing Section 3650 contains design and construction requirements referencing national consensus standards that apply to various types of powered industrial trucks (forklifts). This section also contains operating rules for safe use including modifications and structural changes that affect the capacity and safe handling of these vehicles.

An amendment is proposed to add a new subsection (u) for the use, care and maintenance of slings, requiring compliance with Article 101 of the GISO. This proposal will clarify that whenever any sling is used in conjunction with material handling equipment, safe operating practices shall be enforced. The amendment is necessary to promote the safe use of slings in conjunction with forklifts.

DOCUMENTS RELIED UPON

None.

DOCUMENTS INCORPORATED BY REFERENCE

None.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Economic Impact Analysis

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal provides direction to use existing standards already in Title 8 for the use, care and maintenance of slings when operating forklift trucks, excavators and similar equipment for lifting loads. The Board believes the proposal will have insignificant, if any, adverse cost impact upon the employer's operations, since the thrust of the proposal is to ensure that employers are adequately aware of requirements that already exist in GISO Article 101.

Therefore, the adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

This regulatory proposal is intended to provide worker safety at places of employment in California.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. [*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.]

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. [See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.]

These proposed regulations do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no adverse economic impact is anticipated. The proposal would provide businesses, small or large, specific guidance in regard to the safe use of slings by industrial trucks (forklifts) and haulage vehicles (excavators). The amendments do not create new requirements, but rather, add clarification as to which existing standards apply to these slings. The proposal will promote worker safety by directing employers to standards in GISO, Article 101, that will require that slings be used safely.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.